

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AVI KOSCHITZKI, On Behalf of Himself and)
all Others Similarly Situated,)

Plaintiff,)

vs.)

APPLE INC. and AT&T MOBILITY LLC,)

Defendants.)
_____)

Civil Action No. 1:08-CV-04451-JBW-VVP

AFFIDAVIT IN OPPOSITION TO
DEFENDANTS' MOTIONS TO DISMISS
AND TO STRIKE

STATE OF NEW YORK)
) ss:
COUNTY OF NASSAU)

Joseph Russello, being duly sworn, hereby deposes and says, under penalty of perjury, as follows:

1. I am a partner in the law firm of Rigrodsky & Long, P.A., counsel for plaintiff Avi Koschitzki ("Plaintiff") in this putative class action. I am an attorney licensed to practice law in the State of New York and am admitted to practice before this Court.

2. I respectfully submit this Affidavit in opposition to the motions of defendants Apple Inc. ("Apple") and AT&T Mobility LLC ("AT&T") (collectively, the "Defendants") to dismiss the Amended Class Action Complaint (the "Complaint") and to strike the Complaint's prayer for minimum and punitive damages under the New York General Business Law (collectively, the "Motions").


3. I also submit this Affidavit for the purpose of placing before the Court true and correct copies of documents that are referenced as Exhibits in Plaintiff's Memorandum of Law in Opposition to the Motions.

4. Annexed as Exhibit A is a copy of Defendant AT&T's webpage, visited on January 7, 2009, located at <http://www.wireless.att.com/cell-phone-service/specials/iPhone.jsp>.

5. Annexed as Exhibit B is a copy of Defendant Apple's webpage, visited on January 7, 2009, located at <http://www.apple.com/iphone/features/wireless.html>.


JOSEPH RUSSELLO

Sworn to and subscribed before me
this 8th day of January 2009.


Notary Public
MARK S. REICH
NOTARY PUBLIC - STATE OF NEW YORK
NO. 02RE6060618
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES NOV. 20, 2012